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ABSTRACT

The document reports the process used in Massachusetts to qualify for a waiver of the requirements which restrict the supplanting of state and local funds with federal funds according to P.L. 94-142, the Education for All Handicapped Children Act. The controversy between state and federal officials over interpretation of the waiver is addresssed, and it is noted that the Bureau of Education for the Handicapped (BEH) had not at that time fully established its procedures for evaluating compliance. With that as a background, the report proceeds to analyze five components of Massachusetts' waiver review process: initiation, design and specification, site selection, on-site review activities, and reporting. Each component is considered in separate sections, with information on state and federal roles and responsibilities. Recommendations are made for future waiver review processes, including the expansion of timelines for each major activity to allow greater preparation and participation. (CL)

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Project to Develop BEH Waiver Requirements, Procedures, and Criteria

REPORTS OF: FIELD TEST and EVALUATION

PROGRAM MANAGEMENT · RESEARCH · EVALUATIONS · SYSTEMS ANALYSIS

EC150686

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PROJECT TO DEVELOP BEH WAIVER REQUIREMENTS, PROCEDURES AND CRITERIA

REPORT OF FIELD TEST and REPORT OF EVALUATION

September 11, 1978

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PREFACE

This report considers the Massachusetts waiver review process as a field-test for future BEH waiver reviews. The report decuments and analyzes the Massachusetts waiver review process to provide guidelines for developing BEH procedures for conducting reviews in the future.

The field evaluation was conducted with an orientation towards determining what changes in the BEH waiver processes should be considered. In this light, little attention and credit is given to the majority of positive activities which occurred and should be maintained in the future. These successful efforts will be clearly reflected in the final Waiver Review Guide but receive only slight, if any, mention at all in this evaluation. This formative assessment is prepared as a basis for guiding modifications of current practice. Towards this end, implications for changes are included at the end of each significant section. This report is meant to provide a stimulus for the discussion and the design of an effective and efficient waiver review process.

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INTRODUCTION

This section of the evaluation report is designed to provide the reader with the contextual background in which the Massachusetts Waiver Review was conducted. It is important throughout this report to keep in mind that this waiver request represented the implementation of a new BEH administrative procedure. Future waiver reviews would not be expected to operate in a similar context given the experience gained in Massachusetts and the Bureau's current waiver process development activities. The background information provided in this introduction is organized in terms of issues related to: the definition of a waiver; criteria used to evaluate a waiver request; and the evolutionary nature of the Massachusetts waiver review process.

Definition of the Waiver

The Massachusetts SEA and BEH interpreted the intent of the waiver provision of PL 94-142 somewhat differently with respect to the meaning of the "in part" clause. The difference related specifically to the clause in the law "... The Commissioner may waive in part the requirement under sections 613 (a) (9) (b) and 614 (a)(2)(B)(ii)"(which restrict the supplanting of State and local funds with Federal funds). The SEA interpreted the "in part" provision to mean that it could apply for and be granted a waiver of the non-supplant requirements which it could then regrant to those local education agencies found to be in compliance with the PL 94-142 requirement

that all handicapped children be provided a free appropriate public education. The SEA expected that fewer than 20% of its LEAs would be found to be in substantial compliance with Federal requirements and therefore be eligible to obtain a waiver to supplant. Massachusetts proposed that complying districts would be permitted to use 75% of Federal (PL-94 142) funds for maintaining current programs; however, at least 25% of Federal funds would have to be applied to increased costs, contingency reserve, new programs, or training. In effect, the SEA contended that the "in part" provision referred to partial fulfillment of the full service objective of PL 94-142. BEH and the U.S. Office of Education legal counsel interpreted the "in part" provision to mean that U.S.O.E. could waive part, not all, of the non-supplant requirement. For example, in granting a waiver U.S.O.E. could decide to waive the requirement that LEAs not use Federal funds to pay for costs paid for previously out of State or local funds but could continue to require that local education agencies budget at least the same amount out of State or local funds for special education that had been spent the year before. Further, BEH maintained that the waiver could be granted only when it was assured that all children in the State, not all children in specific complying districts, had available a free appropriate public education (FAPE). These differing interpretations of the "in part" provision existed throughout the Massachusetts waiver review process and contributed consistently to cross-purpose communications and different expectations.

Evaluation Criteria

As a result of the differing interpretations of the "in part" clause of the waiver regulations, the SEA and BEH also maintained divergent interpretations of what would constitute compliance, and, therefore, what would be considered clear and convincing evidence of the availability of free appropriate public education for all handicapped children. In addition, BEH was able to provide only general guidelines to the State's consumer, advocacy and professional organizations regarding criteria to be used in determining whether the programming and procedural requirements integral to the concept of FAPE were being implemented. This lack of clarity in specifying evaluative criteria was an impediment to these organizations in directing and targeting their participation. These issues are discussed below under SEA Capability vs. LEA Performance Criteria and FAPE Criteria.

SEA Capability vs. LEA Performance Criteria

The SEA contended throughout the review process that it is unlikely that any state would ever be in "full compliance". Rather, they maintained, the issue should be to determine whether SEAs are capable of monitoring and enforcing LEA compliance with State and Federal legislation and regulations. The SEA believed that the waiver request should be positively reviewed if they could demonstrate that they had the ability to discriminate complying from non-complying LEAs, the fortitude to use administrative and litigative procedures to enforce compliance, and the capability to implement, maintain, and assure the functioning of all systemic and individual accountability procedures.

Consistent with the SEA's orientation towards the criteria to be used in evaluating their waiver request, evidence of past, present, and proposed leadership in developing policies and procedures was submitted as clear and convincing evidence. This evidence included examples of SEA audit reports, litigative actions brought against non-complying LEA's, and model districts to support the contention of SEA leadership and capability.

In contrast, BEH's interpretation of the criteria for evaluating a waiver request was that all handicapped children statewide must be receiving a FAPE. Thus, evidence of SEA leadership and capability was necessary but not sufficient evidence for granting a waiver. Thus, throughout the review the SEA and BEH were considering evidence with differing criteria as to what was clear and convincing.

FAPE Criteria

Another issue characterizing the "first time" nature of the Massachusetts waiver review was the difficulty BEH had in specifying for the consumer, advocacy and professional organizations what criteria would be used for determining whether procedural and programming features were integral to the concept of FAPE were being implemented. As a result, these groups felt their ability to participate was somewhat limited. Lacking a clear understanding of what precisely was considered integral to FAPE, these organizations were not able to effectively communicate to their constituents the scope of evidence that would be considered clear and convincing, or the nature of programming and procedural components, such

as completeness of individual education plans, adequacy of program availability, or procedural safeguards, that would be appropriate for comment.

Evolution of Process

The above two issues concerning the definition of the waiver concept and evaluation criteria reflect the reality that at the time of the Massachusetts waiver request, BEH's administrative procedures for evaluating such a request had not been fully established. Because the SEA wanted a decision on their request by early June, 1978, it was agreed that BEH would design a waiver review process for one-time use in Massachusetts based upon the waiver provisions contained in the regulations (section 121a.589) and upon policy decisions which had been made to date within the Bureau. The SEA offered to assist in this design process understanding that this activity would evolve over a period of several months. Both parties, in good faith, worked together to design the review process. However, problems eventually arose from a lack of procedural clarity at the beginning of the process when modifications, substitutions, and procedural deletions were later required by BEH. The SEA expressed concern that original understandings and ground rules which they felt had been established early in the process were being altered. Two major factors contributed to the SEA concern. First there was an unavoidable change in BEH personnel working on the Massachusetts request during the design phase of the process. Some minor modification of the original design accompanied this staffing change. Second, consistent with the original understanding between BEH and the SEA, rather than specifying all data require-

ments and procedures at one time, Bureau staff determined them over a period of approximately three months in an effort to assure comprehensiveness in the previously uncharted waiver review process. Bureau staff took great care to assure that any changes requested would not unnecessarily burden or inconvenience the SEA. The effect of these factors on the SEA was to produce the sense of continual change.

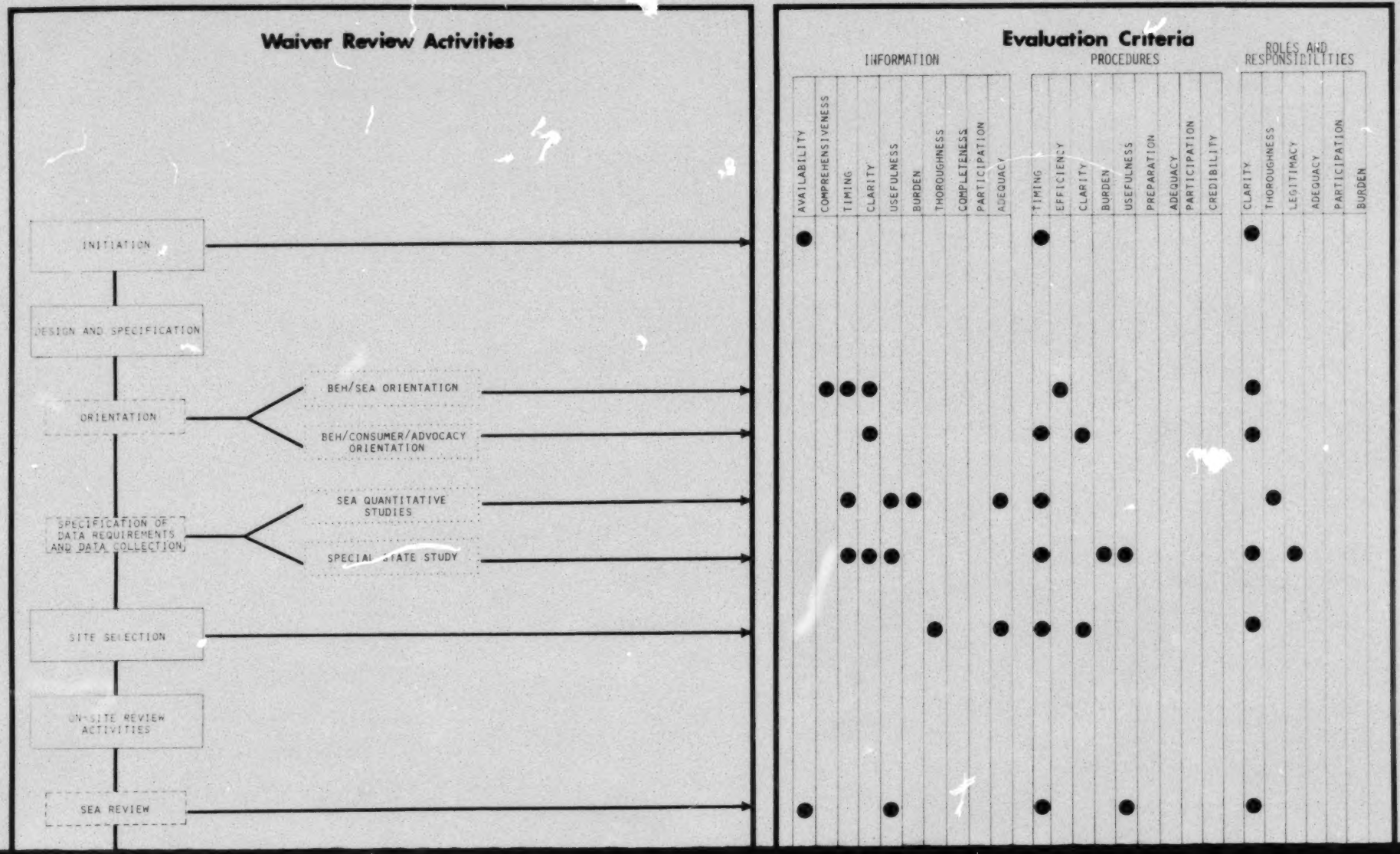
The divergent SEA/BEH interpretations of the statutory and regulatory waiver provisions, the evaluation criteria, and the evolutionary nature of the review process were all factors which influenced the Massachusetts waiver process. Their effect was to produce a level of uncertainty shared by all participants at varying times in the process. Although the ambiguity was at most times minimal, particularly given that this was the first such waiver review, it was necessary to continually clarify and modify expectations in order to keep communications open and to maintain a timely review schedule.

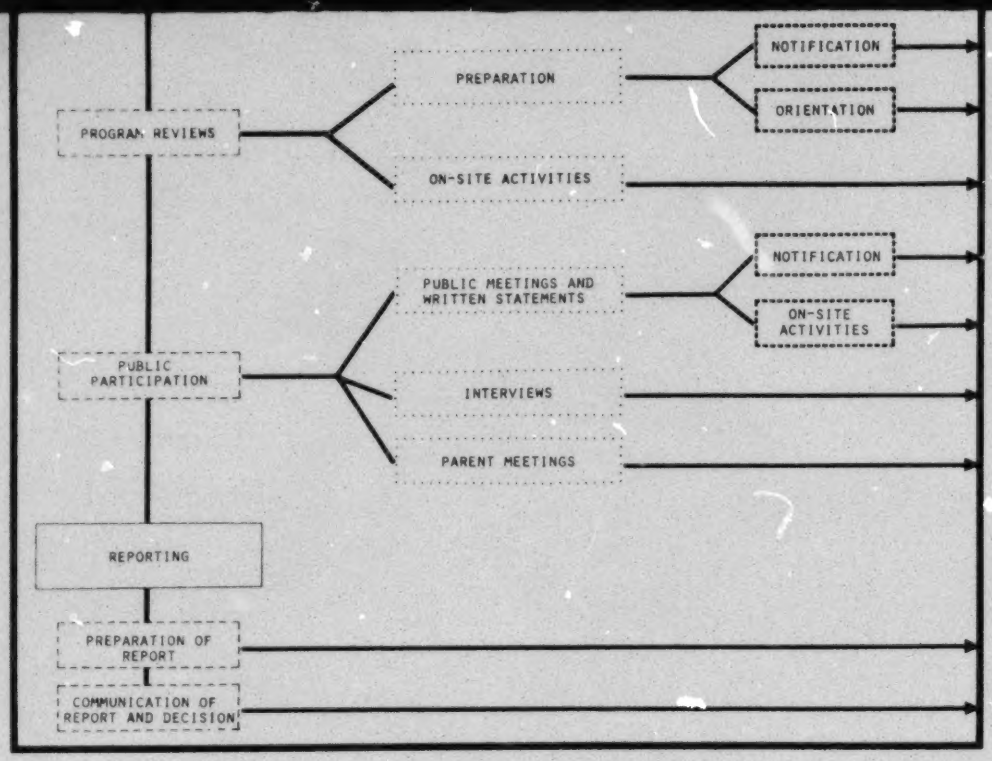
The remainder of this report is organized into five sections: (1) initiation, 2) design and specification; 3) site selection; 4)on-site review activities; and 5) reporting. Each section is organized to provide a brief review of the process as it occurred in Massachusetts. A more detailed explanation of each of those major activities is contained in an earlier companion report entitled: "Massachusetts Waiver Review - A Case Study". The analysis of the Massachusetts waiver review is organized to follow the basic chronological sequence of activities which occurred. However, it is significant to recognize that in many instances although the activities are described in a

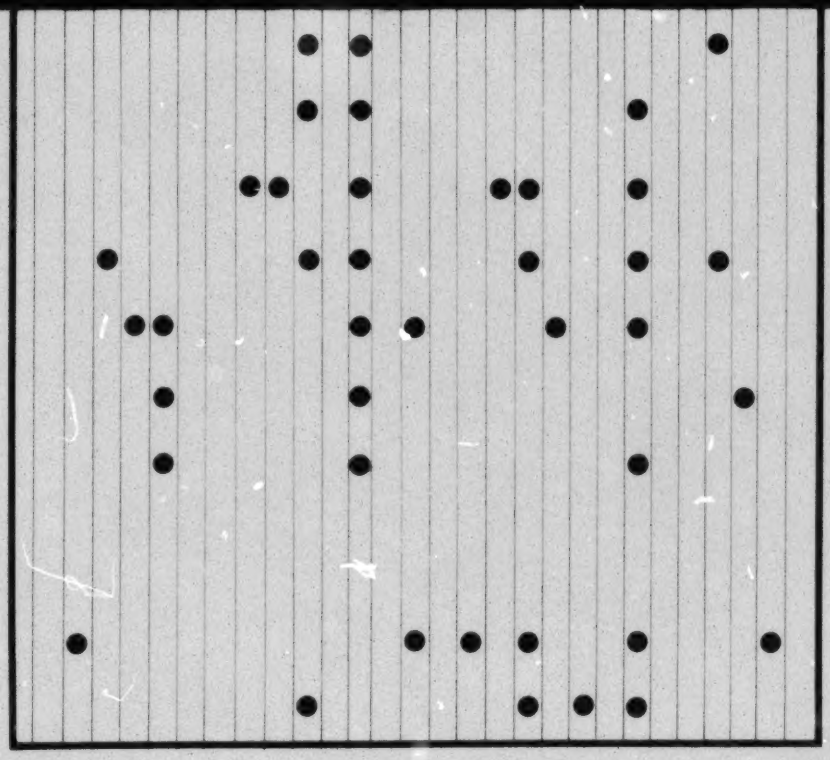
temporal order they overlapped in their implementation. Each of the five major activity components is analyzed considering three dimensions: information, procedures, and roles and responsibilities related to their implementation. Finally, for each activity implications for changing the waiver process for the future are presented. Table I provides an overview of the criteria used in assessing each dimension for each activity in conducting this field evaluation.

Again, as stated in the Preface, this report is not designed as a summative evaluation, but rather as a formative evaluation for suggesting areas of change in future waiver processes. The predominantly positive practices characterizing the Massachusetts waiver review are not emphasized and will be reflected in the final Waiver Review Guide.

Table 1. Evaluation Schema for Massachusetts Waiver Review




PROGRAM REVIEWS
PREPARATION
NOTIFICATION
ORIENTATION
ON-SITE ACTIVITIES
PUBLIC PARTICIPATION
PUBLIC MEETINGS AND WRITTEN STATEMENTS
NOTIFICATION
ON-SITE ACTIVITIES
INTERVIEWS
PARENT MEETINGS
REPORTING
PREPARATION OF REPORT
COMMUNICATION OF REPORT AND DECISION



INITIATION

This phase in the waiver review process is marked by two steps: first, the SEA makes a formal, written request of BEH for a waiver to supplant and, second, the Bureau makes an initial response to the request. Of the two steps, the latter is the more complex in that it requires the Bureau to assign staff to review the request and to provide the SEA with a general overview of the waiver process by means of a description of the requirements, procedures, and responsibilities that will be involved in evaluating the request.

Information: In order for an SEA to determine whether and when to apply for a waiver, an SEA must be fully informed by BEH of the criteria and procedural requirements for obtaining a waiver. At the time of the Massachusetts waiver request, BEH had not yet fully defined and developed the data requirements and administrative procedures that would be used in the waiver review process. Although there were waiver provisions in the PL 94-142 regulations, they lacked specificity and were, therefore, useful primarily as a guide for more specifically delineating data requirements and procedures to be used in the Massachusetts waiver review.

- Availability. In its request for a waiver, the Massachusetts SEA asked BEH to specify the requirements and procedures for the waiver review process and requested an interpretation of waiver provisions contained in the regulations. Before BEH could respond to the SEA request it was necessary to consult on policy and procedures within the Bureau and with DHEW Office of General Counsel staff to

establish the waiver guidelines upon which the Massachusetts review would be based. This development process took several months to complete.

Procedures: Initiation of the waiver review process requires that the SEA submit a written request to BEH and that the Bureau respond to the SEA with a general overview of the data and procedural requirements to be employed in the waiver process and with a tentative schedule for conducting the review. Implementation of the review in Massachusetts was delayed for several months after the SEA request was made. Three occurrences contributed to this delay. First, at the time of the SEA request BEH was not fully prepared to define and implement the review process. Second, the SEA letter was not initially recognized by BEH staff as a waiver request because the letter addressed several other policy issues which required immediate resolution. In a telephone conversation that took place several weeks after receipt of the letter, the SEA made BEH staff aware that they were awaiting a Bureau response to the request. Third, once BEH responded to the SEA request and initial arrangements to design and implement the waiver review were underway, the BEH staff had to be reassigned to the waiver review.

- Timing. As a result of the circumstances described above, the initiation phase of the waiver review process was prolonged over a four-month period. The Massachusetts SEA had made its initial request for a waiver in late October, 1977, expecting that there would be sufficient time for BEH to evaluate its request for an early June, 1978,

decision. The four-month delay in beginning the waiver review process significantly reduced the time available for BEH to conduct the review.

Roles and Responsibilities. In requesting a waiver of the non-supplant requirements, the SEA is responsible for making a formal, written request to BEH. BEH is then responsible for acknowledging the request and initiating the preliminary plans for implementing the waiver review process. As discussed earlier, the Massachusetts SEA waiver request was contained in a letter to BEH which, in addition, addressed and sought resolution of several policy issues. Upon its receipt, the letter was forwarded to BEH staff responsible for making the policy determinations on the issues it raised. Because no other State had sought a waiver before this time and procedures had not been established, the responsibility within the Bureau for responding to the request had not been clearly delineated.

- Clarity. Response to the Mssachusetts request was not clearly the responsibility of any particular person or unit within the Bureau. It was not until the SEA contacted BEH in late December asking for action on their request that clear responsibility within the Bureau was assigned.

IMPLICATIONS

The amount of time it took BEH to respond to the Massachusetts waiver request and to assign responsibility within the Bureau for handling the request seem to be related to the fact that this was the first such request. Given the purpose of this contract and the experiences obtained from the Massachusetts waiver process, it is anticipated that these initiation problems will not reoccur. Design of future initiation procedures should consider:

- The development of a general overview statement for distribution to State education agencies, describing the data requirements, administrative procedures, and evaluation criteria that apply to the BEH waiver process.

- A general distribution of the overview statement to all SEAs so that requests for a waiver result from a consideration of adequate descriptive information.

- Clarification and assignment of roles and responsibilities within BEH for handling waiver requests.

- Notification to all DAS staff of roles and procedures for response to waiver requests.

DESIGN AND SPECIFICATION

Following the initiation of the waiver review process is the design phase. In this phase the data requirements, procedures, and the roles and responsibilities of key participants are established. SEA data collection activities are also implemented in this phase. In order for BEH to assure that the information obtained in the waiver review will be adequate for evaluating the SEA request, extensive orientation activities are necessary in preparation for specifying the data and procedural components. This section is organized by activity under two headings, Orientation and Specification of Data Requirements and Data Collection

Orientation

The primary purpose of orientation is to prepare key participants for planning the design and implementation of the waiver review process. Because of the variability in special education programming across States, BEH has determined that, to the extent possible, design and implementation of the process should be flexible. Such flexibility would permit accomodation to administrative and programming characteristics of a particular State. This approach requires that those key agencies and persons who will share responsibility for the planning and implementation of the waiver review activities be involved in the process from the beginning.

BEH/SEA Orientation. The specific purpose of BEH/SEA orientation is two-fold. First, in order to design a waiver review process that is sensitive to the programming features and response capabilities of a State, BEH needs a comprehensive understanding of the State's special education delivery system. Such an

understanding would require familiarity with the administrative structure, the service delivery system, data accessibility, and the reporting capability of a variety of agencies and with issues currently being discussed within the State's special education community. The second purpose of BEH/SEA orientation is to establish a clear and mutual agreement at the outset concerning the roles and responsibilities and the requirements and procedures involved in the review process. Unlike in the BEH Program Administrative Review in which BEH takes the lead or a proactive role and the SEA takes primarily a reactive role, in the waiver review (in which the SEA is seeking an exemption from a Federal requirement) both agencies share proactive and reactive roles. This shift in program review emphasis suggests the need for careful and thorough definition.

Information. BEH must have sufficient information on a State's special education system in order to be able to specify the data that will be required and the procedures that will be employed in the waiver review process. In response to the Massachusetts waiver request, BEH staff reviewed information available within the Bureau from the most recent Annual Program Plan and Program Administrative Review report and from the child count data. They also had discussions with the State Plan Officer for Massachusetts. Additional relevant data was obtained from the Office of Civil Rights and the National Center for Education Statistics. Finally, in a series of meetings between BEH and SEA staff, information related to the State's special education delivery system was obtained.

- Comprehensiveness. Though not apparent until the specific data requirements and procedures were being determined, the information BEH obtained during the orientation period on the complex special education system in Massachusetts was incomplete. Lacking either in part or completely was information on the comparability of Federal and State policy, on agency interrelationships related to the responsibility for placing and serving handicapped children, on the regional nature of the service delivery system, and on the State agency monitoring process. Incomplete understanding of these features of the State system for serving handicapped children resulted in the specification of data requirements which were not highly targeted and in the need to structure on-site review activities for obtaining relevant data related to these delivery system features.

- Timing. As mentioned above, in addition to meeting with SEA staff to obtain orientation information, BEH staff reviewed available data on Massachusetts from such sources as the National Center for Education Statistics, the DHEW Offices of Civil Rights and General Counsel, the State's Annual Program Plan, and the report of the most recent BEH Program Administrative Review. These review activities took place mainly after the waiver process design and specification had been developed and initially implemented. Consequently, the information resulting from the review could not be used in the initial development of data requirements.

- Clarity. At the time of the orientation meetings with the SEA, Bureau

staff were unable to articulate the specific criteria and weighting that would be used to either grant or reject the Massachusetts waiver request. As a consequence, the information BEH requested of the SEA to be used in designing the waiver review was in some cases overly detailed and in others incomplete.

Procedures. Two procedures were used by BEH during the orientation phase: (1) BEH review of information available from the Bureau and from other DHEW agencies and (2) BEH/SEA meetings.

- Efficiency. The process of orientation in the Massachusetts waiver occurred over a period of several months. Four meetings with the SEA were necessary to accomplish the orientation. These meetings resulted from the continuing evolution and development of the waiver concept and waiver review process. Given that the Massachusetts waiver request was the first received by BEH, the planning of such a review was often characterized by discovery of needs resulting from experience rather than from anticipation. Concomitantly the sequencing and timing of activities at times resulted in duplication of effort and in the use of additional staff time and travel to clarify emerging needs.

Roles and Responsibilities. During the orientation phase of the waiver process it is expected that BEH has a proactive role and the SEA a reactive one. Because the Bureau ultimately designs and approves the requirements and procedures for the waiver review, during the orientation,it needs to focus on the areas in which it requires information.

The legacy of State education agency communications with BEH is such that SEA contacts with the Bureau are made primarily through the State Plan Officer (SPO). In the Massachusetts waiver review, SEA staff not only communicated through the SPO but also through staff in the Compliance and Policy Sections of DAS, the DAS Division Director, and the Deputy Commissioner of the Bureau.

- Clarity. It was at times not clear who within the Bureau would have what responsibilities in working with the SEA. Four staff members, including the State Plan Officer for Massachusetts, participated in early discussions with the SEA. Ultimately, primary responsibility for the waiver was assigned to a task force comprised of three Division of Assistance to States staff. This task force was led by the head of the Compliance section who had primary responsibility for conducting the Massachusetts waiver review. Although the leadership role was clearly established, SEA staff communicated with other BEH staff, as mentioned above, resulting in some ambiguity over roles for the SPO and the team leader.

BEH/Consumer-Advocacy Orientation. The purpose of this activity is to inform major special education consumer, advocacy, and professional organizations of the waiver review process and to discuss potential opportunities for their involvement. The role identified by BEH for these groups and their constituencies expanded the role suggested for them in the PL 94-142 regulations. The regulations specified that consumers, advocates, and professionals should have the opportunity to comment on the adequacy and comprehensiveness of the

State's due process and child-find systems. In establishing a framework for the Massachusetts waiver review process, BEH worked with these organizations to define the conditions under which they could participate and the nature of comments that BEH would require. In order for consumer, advocacy, and professional organizations to take advantage of these opportunities, early notification and orientation was essential.

Information. Consumer, advocacy, and professional groups needed to be clearly informed of the variables and criteria related to the concept of free appropriate public education on which the SEA request would be evaluated. In addition, these groups needed to know what specific mechanisms there would be for their participation and for that of their constituents in the waiver review. At the orientation meeting BEH staff discussed the purpose of the waiver review and provided a general indication of the nature of evidence that would be acceptable.

- Clarity. These organizations felt that BEH did not provide them with sufficiently specific information concerning the areas of programming practices BEH considered relevant to the concept of FAPE. In order for them to effectively target their own efforts and suggest strategies for participation to their members, they maintained that a clear statement of FAPE criteria was necessary. In addition, they stated that they needed a definition of the waiver and its potential implications for special education services in the State in order to understand the process and to plan for their own involvement. They also wanted to know how much breadth and depth of evidence

BEH would require in order to evaluate the Massachusetts waiver request. Because the waiver was one of several important activities facing them and because, as primarily voluntary organizations, their resources were limited, these groups needed to be able to assign priorities to their involvement in the waiver review. Clarification was requested on the above three points so that they could determine the appropriate level of staff time, the use of other organizational resources, and the direction in which to focus their attentions.

Procedures. The orientation of consumer, advocacy, and professional groups took place in a meeting between BEH staff and representatives of the major State organizations after the design and specification of the waiver review process. The meeting was arranged for BEH by SEA staff.

- Timing. The orientation of these organizations occurred two months after the waiver process had been designed and one month before the scheduled on-site review visit. At the orientation meeting, representatives of these groups expressed the concern that four weeks was not sufficient time for them either to prepare evidence related to the availability of FAPE or to adequately notify their constituents of the opportunities for participation during the on-site review. They felt that in order to prepare responsible and substantiated evidence, considerably more than a month was required. And because notification occurred too late to be placed in their monthly newsletter to members, additional mailings would be required.

- Clarity. Several consumer representatives expressed the concern that the Massachusetts waiver review process was not being conducted in such a way that the consumer/advocate perspective would be considered by BEH. There seemed to be three reasons for this perception. First, they stated that the SEA had communicated to them that the waiver review process would be an SEA/BEH activity. Second, the SEA had not provided information to these groups on the waiver request or the review process, as was the agency's practice in other areas of special education policy. Third, the SEA, not BEH, arranged the BEH orientation meeting with them. The discussion that took place at the meeting between BEH and the consumer/advocacy representatives alleviated much of their concern and provided guidance for their participation.

Roles and Responsibilities. Within the context of the orientation, it was BEH's role to clarify for the consumer and advocate groups the criteria that would be used in evaluating the waiver request and to describe the opportunities they would have to participate in, in the review. BEH looked to these organizations to provide their perspective on the State's special education system, including some indication of strengths and weakness, in order to enhance BEH's familiarity with the State as a whole.

- Clarity. Because the consumer/advocate orientation to and involvement in the waiver review occurred relatively late in the process, these organizations questioned BEH's real interest in their having a significant role. As a result of discussion with the consumer and advocate groups, BEH determined that alternative mechanisms for their

participation and for the participation of their constituents should be made available. The SEA viewed the subsequent involvement of these groups in the waiver review to be a modification of the design plan agreed to earlier with BEH, contributing further to the evolutionary sense of the review.

IMPLICATIONS

Critical to developing waiver review requirements and procedures and, ultimately, to successfully conducting a waiver review is the orientation of all key participants. Orientation activities should be directed at 1) BEH's obtaining a comprehensive understanding of a State's special education system and 2) at articulating evaluation criteria and 3) at clearly establishing roles and responsibilities for a particular waiver review. Towards this end, in planning orientation activities for future waiver reviews the following should be considered.

- Clear delineation of roles and responsibilities is necessary in order to obtain required background information in preparation for conducting BEH/SEA orientation meeting(s).

- To effectively and efficiently structure the BEH/SEA orientation meetings it is necessary that a general statement of BEH informational requirements be articulated.

- In order to prevent misunderstandings, frictions, and credibility gaps, it is necessary during the orientation phase to identify evaluation criteria and potential timelines, procedures, roles, and responsibilities. This should enhance the climate for responsively designing the waiver review process.

- Major consumer, advocacy, and professional organizations need to be identified and meetings need to be scheduled between BEH staff and representatives of such groups.

- The legitimacy of participation by consumer, advocacy, and professional organizations and by other State agencies needs to be established.

- Given the abstract and complex nature of the waiver review process there is a need to clearly articulate the concepts underlying the waiver process to consumer, advocacy, and professional organizations.

- The nature of consumer, advocacy, and professional participation in the waiver review process needs to be discussed and determined. Given the nature of these organizations, systematic consideration must be given in order to effect full participation.

- Depending upon the State delivery system, the orientation phase may need to be extended to include other state agencies (such as welfare, corrections, public health, youth) that deliver services to handicapped children.

Specification of Data Requirements and Data Collection

The PL 94-142 statute and regulations require that in order for a State to be granted a waiver to supplant, an SEA must provide clear and convincing evidence that a free appropriate public education is available to all handicapped children. The regulations specified several data requirements and procedures to be used in evaluating a waiver request and also provided BEH the opportunity to determine yet other data requirements and procedures. BEH based the requirements and procedures for the Massachusetts waiver review in large part upon the specifications contained in section 121a.589 of the regulations. These were expanded to reflect BEH interest in obtaining information on local performance and in systematically including the consumer, advocacy, and professional community in the review procedure. Within this context BEH specified that prior to the site visit the SEA prepare and submit to BEH a series of quantitative studies and a special state study that would include the perspectives of major consumer, advocacy, and professional organizations. In addition, the Bureau specified that additional data would be obtained during its on-site visit, in reviews of LEA and other programs, and in public meetings. The SEA studies are discussed below and the on-site program reviews and public meetings in a later section

of this report.

SEA Quantitative Studies. The purpose of the quantitative studies was to obtain an indication of SEA performance of its responsibility to assure State compliance with PL 94-142 requirements and of state-wide program performance in providing a free appropriate public education to all handicapped children.

Information. State-wide aggregates of cost, personnel, and student data as well as of the due process and child-find systems were requested by BEH. The SEA reported this information in a series of discrete studies. Data reported by the SEA in the quantitative studies was useful to BEH primarily in directing later on-site program review activities and as documentation of state-wide trends. However, these quantitative studies had only limited value in verifying the availability of FAPE.

- Usefulness. State-wide aggregated data submitted by the SEA provided an indication of the progress in and status of certain aspects of special education programming for the State as a whole. However, the data were not useful to BEH as an indication of the degree to which LEA services to individual children varied across the State. Given that BEH had determined that it was necessary to focus on local performance in order to evaluate the extent to which all handicapped children had available a free appropriate public education, state-wide aggregate data had only limited utility.

- Adequacy. Consumer/advocacy reaction to the quantitative studies (shared with them by the SEA) was that they were inadequate as clear

and convincing evidence of the availability of FAPE. A major consumer organization illustrated this claim of inadequacy with two points. First, much of the evidence the SEA included in the studies was related to SEA activity. It was this organization's contention that evidence of commendable SEA actions could not substitute for actual results at all administrative levels of the State. Further, this group stated that the best proof that SEA mechanism were working would be proof that all children were in fact receiving an appropriate education. Second, representatives of this group contended that some necessary facts and salient features were omitted from the studies and that conclusions presented by the SEA did not follow from the data reported.

- Burden. The design for the quantitative studies was tentatively established in late January, 1978, and then modified and more fully detailed in early March. Because of the time constraints imposed by the SEA need for a USOE decision on its waiver request by early June, data collection activities had to occur within a two-month period. Some of the information submitted to BEH was readily available in the SEA central office, requiring the use of only limited staff and fiscal resources. Other data, however, had to be aggregated from regional and local sources and some of it analyzed in response to the design specifications, requiring significant staff and computer time. SEA staff commented that locating, accessing, and preparing data for some of the studies was a burdensome task to complete given other ongoing agency responsibilities and activities.

- Timing. Several of the quantitative studies were submitted to BEH on schedule; however, others were not available until just prior to the on-site review. BEH and SEA staff had agreed to delivery dates for the studies to assure BEH would have sufficient time before the site visit to review the information and, if necessary, plan for follow-up activities on site. BEH was, however, not able to use the results of some of these studies in planning for the visit. The SEA staff said that the two-month period they had for data collection did not give them enough time to prepare the studies for submission to BEH.

Procedures. BEH specified several data points to be included in each of the quantitative studies and indicated that the data should be provided for the most recent three years. SEA staff collected and reported the data with some interpretative analysis to the Bureau.

- Timing. As mentioned earlier, SEA staff found that they had insufficient time to prepare the quantitative studies. The SEA had made its waiver request seven months before a decision was needed, anticipating that that would be enough time in which to satisfy BEH waiver requirements. However, as a result of the delays in initiating the waiver review process, the time available for data collection and reporting was reduced by two months.

Roles and Responsibilities. BEH had taken responsibility for specifying the data points to be included in the quantitative studies. In preparing

the data for the Bureau, the SEA went beyond the requirements and provided some interpretation and explanation of the information reported.

- Thoroughness. As a result of SEA initiative, the quantitative studies treated the required data more thoroughly than BEH had expected. The explanations and analyses offered provided BEH staff a broader base of information that was useful in conducting the SEA review during the site visit. To the extent that comparable treatment of quantitative data is desirable in future waiver reviews, BEH should take a more directive role in specifying the nature of the SEA studies.

Special State Study. The special state study, required by the PL 94-142 regulations, was designed to be a qualitative description of the adequacy and comprehensiveness of the State's special education system in serving handicapped children. The study was to include evaluative comments from major consumer, advocacy, and professional organizations. The special state study offered the public several opportunities to provide BEH with information related to FAPE.

Information. The topics addressed in the study were the cost of education to the parents; the identification, evaluation, and placement of handicapped children; due process procedures; annual evaluation of IEPs; and SEA monitoring of programs in the State. Respondents were asked to evaluate the performance of the State in each of the five topic areas. The Massachusetts

study, prepared by the SEA, was a reiteration of State policies and required procedures as specified in State law and regulations and in SEA policy statements. Respondent comments to the study were of two types. The first, as requested by the SEA, were numeric ratings from 1 to 10 indicating the adequacy and comprehensiveness of the State's performance. The second type of response, given by one organization to the questions posed by the SEA, were qualitative evaluative statements that addressed the performance of the State in serving handicapped children.

- Usefulness. The special state study was of limited use to BEH in evaluating the SEA waiver request. The adequacy and effectiveness of State policies and actual practices in meeting the educational needs of handicapped children were not addressed in the body of the study. The comments made by some of the respondents rated the adequacy of the designated SEA policies and required procedures but did not address the ability of LEAs throughout the state to use these policies and procedures to meet the educational needs of children. One respondent group did present quite useful information on statewide performance related to the SEA mandates in a series of research papers. With the e ception of the comments of the one respondent group just mentioned, the special state study did little more than list SEA policies and procedures and relate consumer reaction to leadership initiatives.

- Timing. The special state study was to have been submitted to BEH prior to the site visit. Bureau staff had intended to review the study and, if necessary, during the on-site program reviews to follow-

up on the information it contained. The completed study (the SEA document and respondent comments) was not available until the end of the site visit. Although the study was considered in the final evaluation of the SEA request, it could not be used by BEH in directing inquiries during the program reviews.

- Clarity. Apparently, the SEA did not clearly understand the purpose of the special state study. BEH had intended that the study should produce information on practice and performance and that respondent comments would verify SEA data or raise questions about its validity. A BEH interview with one of the respondent groups during the site visit revealed that the nature of respondent comments desired was also unclear. Representatives of this organization, in discussing their comments, offered data contradictory to some of their reported positions. Although their responses to the study were in keeping what the SEA had requested of them, they were not consistent with the intended purpose of the study, which was to address the adequacy and effectiveness of state-wide performance.

Procedures. BEH specified the areas the SEA was to include in the special state study and designated the consumer, advocacy, and professional groups from which participation should be solicited. BEH and the SEA agreed that before it was distributed to respondents for comment, the study would be submitted to the Bureau for review. The study, complete with respondent comments, would then be sent to BEH prior to the site visit. Instead, however, the SEA prepared its study and then distributed it to the selected

organizations. BEH received a copy of the study after it had been sent out for comment. The respondent groups were asked to provide evaluative comments rating the performance of the State in the various areas addressed using a 1-10 rating scale in response to a series of questions. Explanations for the ratings given were requested for responses falling into the unsatisfactory range (1-3). The SEA requested that responses be submitted within two weeks. Respondent groups prepared their comments; two used the SEA generated rating scale and a third group planned to prepare its own set of evaluative comments. The completed special state study, the SEA document plus respondent comments, was made available to BEH during the site visit.

- Timing. The amount of time between when BEH and the SEA determined the content areas for and respondents to the special state study and when the study was actually distributed for comment was apparently inadequate. The SEA had little more than one month in which to prepare the study. Although a longer period of time might have encouraged the preparation of a more useful document, such an assumption is conjecture. More time would, however, have given BEH the opportunity to review the study before it was sent out for evaluative comments and to suggest modifications consistent with BEH needs for information.

- Burden. One of the respondent groups, comprised of several consumer and advocacy organizations, commented that given their desire to responsibly contribute to BEH's information on state-wide performance, responding to the SEA document proved burdensome in the time period

allowed. The responses of the other two groups were submitted several weeks after the date specified by the SEA, suggesting that an earlier response for either group may have posed a similar burden.

- Usefulness. The special state study procedure used by the SEA to solicit respondent comments appeared to be of limited use in obtaining valid judgmental comments on State procedures and performance in the designated areas. By specifying that a rating scale be used, the SEA offered little latitude to the groups for expressing their evaluative comments. One of the three groups found the rating scale inappropriate and inhibitive for expressing evaluative comments and so, designed its own narrative response. Another group, when interviewed by BEH, offered comments that were far more helpful and illustrative of actual practice than its response to the special state study had been.

Roles and Responsibilities. The SEA was responsible for preparing the special state study according to a general BEH design and for distributing it to the selected consumer, advocacy, and professional organizations. It was then the responsibility of these groups to make their evluative comments on the content of the study.

- Clarity. There appeared to be a discrepancy between the role BEH intended the major special education groups to have in preparing the special state study and the role they took based on their communi-

cation with the SEA. One group did understand the role BEH desired it to assume, in large part because of the orientation meeting it had with BEH earlier in the waiver process. It was in the response to this understanding that the group prepared its own evaluation of the systems and procedures addressed in the special study. It can be posited that the SEA and BEH did not concur in the potential role for the respondent groups. Evidence for this would be the nature of the comments made by the two groups that had not had an orientation meeting with BEH.

- Legitimacy. The nature of participation by consumer, advocacy, and professional organizations as articulated by the SEA in the design of the special state study suggests that the legitimacy of their role in the waiver review process had not been established by BEH.

IMPLICATIONS

The design phase represents the single most critical step in the waiver review process in that it establishes the basis for all future activities. The complex interactions of key participants that will consistently characterize review activities and the need to assure that data requirements and procedures will ultimately result in adequate evidence related to the availability of FAPE require thorough consideration and careful planning. Towards this end, the following should be considered in implementing future design procedures.

- In order to provide an accurate picture of state-wide variability in the delivery of services to handicapped children, in future waiver reviews, the use of deagreggated state-wide data will be required.

- In requesting the quantitative data, BEH must be more directive in specifying the type of interpretation required and the criteria to be used in reviewing these studies.

- Given the variability in the availability and centralization of data, BEH must provide the SEA with longer periods of time to obtain the quantitative data.

- Given the role of the public to, in part, verify the claims of the SEA, the content of the quantitative studies should be shared with them.

- BEH must assume a directive role in specifying and approving the content and procedures to be followed in conducting the special state study.

- Because of the limited resources of consumer, advocacy, and professional organizations, they must be given ample opportunity to inform and mobilize their constituents.

SITE SELECTION

In order to obtain data related to the state-wide availability of FAPE, BEH required that information be provided on-site by LEAs as well as by state-operated and state-supported programs. This source of information was critical to obtaining clear and convincing evidence of FAPE, given that BEH evaluation criteria emphasized LEA performance. This section addresses the procedures used to select a representative sample of programs providing services to handicapped children ages 3-21.

BEH had to identify stratification variables that would provide a representative sample of state-wide programmatic and procedural variations. This conceptual framework provided the basis for determining the type of program-specific data the SEA would be asked to provide for a sample of programs identified in the following manner. Using National Center for Education Statistics (NCES) procedures, all LEAs in the State were ranked according to total enrollment. Then, in order to insure the largest possible representation of children served within the sample, the smallest number of districts required to account for 95% of the State's enrollment were selected. In effect, this procedure eliminated the smallest LEAs from the sample. Next, by dividing the number of children served in sample districts by the sample size, a figure was determined to serve as a cut-off point to distinguish larger from smaller districts. This NCES procedure resulted in the identification of 70 districts on which BEH requested the SEA to provide information. This information was used to further reduce the sample size to approximately 30 LEAs. These objective procedures for obtaining a representative sample of programs were then subjected to a test of scrutiny based upon consumer and SEA experience. As a result of this process, a sample of 19 programs was selected for site visits.

Information. BEH requested that the SEA provide the following information on a sample of 70 LEAs in order to select the final sample of programs to be reviewed. Data requested included specification of rural, suburban, or urban location; community wealth index; geographical location; participation in educational collaborative and vocational technical school programs; the date of the most recent SEA program audit; the child-count report; and the number of impartial hearings held. In addition, information on the size and location of institutions (state-operated programs) by category of disability served was requested. After this information was submitted by the SEA, BEH asked for a limited amount of additional data on the due process systems of approximately 30 LEAs. These data were only available from the regional SEA offices and could not be gathered in time for use in site selection. The programs BEH selected included the major types of settings in which special education and related services are provided in Massachusetts: local school systems, regional vocational technical high schools, educational collaboratives which serve the low-incidence populations from other programs in the surrounding geographic area, and the largest of the state institutions which serve each of five different disability groups. Although BEH gave some consideration in selection to the geographic distribution of programs, the correspondence of programs to SEA administrative regions (which paralleled the regional service delivery system) was not taken into account.

- Adequacy. Although in general the stratification variables used to objectively select a sample of programs was considered adequate, minor improvements could be made. Specifically, the SEA's inability to

provide specific data related to the areas of dispute between parents and the schools that resulted in due process hearings, somewhat hampered the confidence level attained in selecting programs

- Thoroughness. The use of NCES statistical sampling procedures as an initial delimiting process implies a goal of generalizability. In fact, no such objective exists in the waiver review process and thus the NCES procedure appears to negatively affect the validity of the data obtained. The use of the NCES procedure relies on cross-sectional representation and does not recognize the regional clustering of service providers. A comprehensive site review requires tracking of all agencies impacting on a particular community. The reliance on cross-sectional sampling results in never obtaining a complete picture for any given LEA. Thus, it is impossible under current procedures to reliably report the availability of FAPE for all handicapped children for whom an LEA is responsible.

Procedures. Given the evolutionary nature of the Massachusetts waiver review process, BEH was unable to fully articulate the criteria for on-site program selection at the outset. This resulted in two separate requests for LEA data by the Bureau. Further, the SEA appeared to misunderstand the Bureau criteria for program selection and requested last-minute additions to the sample to assure adequate representation of model programs.

- Timing. Although BEH did not request an extensive amount of LEA data,

it did make two separate requests. The SEA expressed concern over the timing of the second request. SEA staff were already engaged in the preparation of other data for BEH and found this additional request, which needed immediate attention in order for BEH to complete its site selection, a burdensome one. Further, the SEA request that their model programs be added to the review schedule was inconveniently timed. Although only minimal rearranging of BEH staff schedules was necessary to accomodate the additional reviews, there was less time available than originally planned for reviews at several program sites. In addition, the staff for these programs added by the SEA did not receive adequate advance notice of the BEH visit and thus did not adequately understand either the purpose of or the procedures for the review. In the future, the clarification of on-site program selection criteria at the outset should eliminate this occurrence.

- Clarity. The purpose of BEH's request for LEA data seemed unclear to the SEA. Until BEH was able to clarify its purpose, SEA staff felt that the second request for data represented a change in the agreement BEH had made with them for data requirements. When the design and specification for the Massachusetts waiver review process were finalized, an LEA questionnaire which had originally been planned was deleted. One of the purposes for the questionnaire would have been to provide information on which BEH could have based its site selection. At the time of the deletion, it was apparently not clear to the SEA that BEH would require and later ask for LEA data for use in site selection.

Roles and Responsibilities. BEH and the SEA agreed early in the waiver review process that BEH would be responsible for selecting the programs to be reviews. The SEA, in agreeing to the selection procedure, may not have understood the magnitude and extent of energy required to provide the necessary information for program selection. Because of this underestimation, the SEA was sometimes unresponsive to BEH requests for additional data. The role and influence of consumer and advocacy groups in the on-site program selection process was not clearly delineated. The SEA observation of consumer/advocate influence in selecting program sites appeared to open the way for the SEA to reconsider its self-perceived passive role in this process. As a result, the SEA requested that five new programs be added to the sites already selected. BEH accommodated by adding four of the five programs to their schedule.

- Clarity. There is a need to be able to clearly delineate the types and quantity of data necessary for site selection at the outset. Because there was some ambiguity in this area, the SEA felt that BEH was changing the magnitude of SEA responsibility. In addition, the role of consumer/advocacy and SEA personnel in scrutinizing the objective program selections needs to be clearly articulated at the outset to avoid the perception of either a "witch hunt" or "sell out

IMPLICATIONS

The on-site program selection procedure, given the realities of logistical and design constraints, requires a complex set of conceptual compromises to be im-

plemented. The concept of statistical generalizability is not useful for the purpose of the waiver. Rather, procedures which purport to offer maximum likelihood of indicating the availability of FAPE must be implemented. Towards this end the following should be considered in designing future program selection procedures.

- BEH needs to communicate to the SEA that program site selection will proceed through a sequential reduction of potential sites. This procedure requires increasing specificity of data from fewer and fewer districts until the final site selection occurs.

- Given the regional nature of the delivery of special education services, cross-sectional sampling results in questionable data. It would seem that selecting an LEA and then identifying all potential delivery agents serving that district would be a superior method to that of cross-site representation. This would permit a comprehensive audit trail and provide a picture of interagency coordination.

- The compressed timelines of the Massachusetts waiver review resulted at times in competing priorities for restricted person power. There appears to be a need to sensitively establish timelines which permit adjustments to the reality of available resources.

- BEH needs to clarify that the purpose of the waiver review is to obtain an estimate of the maximum likelihood that FAPE is being provided for all handicapped children within a state. The focus is not on obtaining a representative sample of program quality.

ON-SITE REVIEW

The purpose of the on-site activities was to obtain data which would indicate the performance of LEAs and the SEA in assuring the availability of a free appropriate public education to all handicapped children. Unlike the SEA data required by BEH in the quantitative and special state studies, the data to be obtained on-site would explore the extent to which State policies and procedures were being effectively implemented.

The Bureau planned the Massachusetts on-site review activities to reflect its intent that the waiver review be a thorough and comprehensive examination of procedural and programming practices. The Bureau's Program Administrative Review (PAR) process served as a general guide for determining the site review procedures to be used during the waiver review. Like the PARs, the waiver review would include staff visits to the SEA and LEAs and to institutions and other programs that provide education and related services to handicapped children. In addition, the review would also offer the consumer/advocacy/professional community an opportunity to participate by encouraging organizations and individuals to comment on the availability of FAPE in the State. BEH intended that the on-site visit for the waiver review would be more intense than the PARs. It also intended to examine IEP implementation, which would not be part of PARs until the 1978 school year. Both the staffing and number of programs reviewed were double that for a PAR and the public was offered several different opportunities to participate. The following evaluation of BEH on-site review activities is organized according to the three major sources of data: (1) SEA, (2) LEA and other programs, and (3) public reaction.

SEA Review

The purpose of BEH review activities at the SEA level was to verify and clarify state-wide data that had been submitted as part of the quantitative and special state studies and to examine SEA practices required by PL 94-142. To accomplish the SEA review, the waiver team leader and one support staff member from BEH spent approximately one week in the SEA central offices.

Information. During the SEA review, BEH examined information related to the following: the complaint resolution system, the compliance monitoring process, child-find procedures, PL 89-313 programs, early childhood and vocational education programs for the handicapped, and current litigation. BEH felt that these programming areas were integral to the concept of a free appropriate public education.

- Usefulness. The information BEH obtained during the SEA review was useful not only in verifying data previously submitted by the SEA but also in establishing the extent to which SEA procedures were adequate for assuring the continued availability of FAPE throughout the State. In addition, some information obtained during the SEA review was communicated to the BEH program reviewers, during their on-site visit and this information proved useful in directing their program inquiries.

- Availability. Because the responsibility for program monitoring is decentralized in Massachusetts, the SEA did not have at the central office the most up-to-date audit reports. As a consequence, BEH reviewers had

to request staff conducting program reviews to obtain needed information from regional offices. Further, program reviewers needed to interview regional staff to verify SEA monitoring capability. The use of decentralized SEA staff has implications for structuring the SEA review.

Procedures. BEH reviewers interviewed SEA staff and reviewed records in order to obtain a comprehensive understanding of State accountability procedures and to verify SEA data reported to BEH.

- Usefulness. The interviews and record reviews were necessary and effective mechanisms for verifying and clarifying data which had been submitted to the Bureau. Though the procedures used in the SEA central office appear adequate, they resulted in a need for verification at the regional and local level. The amount of time and the number of personnel required to carry out such procedures needs to be anticipated.

- Timing. The SEA review took place during the first week of the site visit while other BEH staff were conducting LEA and other program reviews. Information obtained during the review was useful not only in directing BEH staff inquiries during on-site program review but also in providing the waiver team leader with a comprehensive understanding of the State's special education system. This knowledge base was useful the following week to the same staff member in conducting the public meetings.

Roles and Responsibilities. The SEA understood that BEH staff would spend most of a week reviewing SEA accountability procedures and practices. Further, the SEA understood that their staff and records would need to be made available during this period of time.

- Clarity. SEA staff and records were made available to BEH personnel. However, the extent of the records required by BEH to verify, for example, the capability of the SEA monitoring/compliance procedure extended beyond the SEA's anticipations. Thus, BEH personnel reviewing local programs needed to augment the information obtainable in the SEA central office. Future waiver reviews need to make the SEA clearly understand the magnitude of their responsibility to provide needed data.

IMPLICATIONS

The SEA on-site review is a critical step in determining the state's ongoing ability to monitor and assure state-wide programmatic and procedural compliance. The verification of SEA-reported data and the in-depth analysis of state practices provide an indication of the extent to which the system is self-correcting. The review of these procedures and practices suggests that the following implications be considered in such future endeavors.

- BEH must initially clearly understand the SEA procedures and practices in order to adequately design a review system sensitive to the amount of decentralization of responsibilities that may exist.

- The SEA needs to understand the magnitude of data that will be required by BEH to adequately review their capability and performance in assuring FAPE.

Program Reviews

Again, the purpose of program reviews was to provide the SEA a mechanism for demonstrating through its programs the availability of FAPE. In order to assure that the information reviewed during the program visits would be consistent across programs, BEH staff spent several weeks prior to the visit in orienting reviewers and the SEA to the on-site activities. A total of eight professional and two support staff from BEH were selected to conduct on-site reviews of nineteen programs during the first week of the two-week visit. The program reviews are discussed below in terms of preparation and on-site review.

Preparation. BEH and the SEA determined that programs to be visited should receive adequate advance notice of the purpose and procedures for the on-site review. In addition, in order to assure consistency across program reviews, BEH planned an orientation for staff reviewers prior to the site visit. This section discusses these two preparation activities.

Notification. BEH staff met with SEA personnel several weeks prior to the site visit to determine a schedule for the program reviews. At that time BEH indicated what the nature of the reviews would be so that the

SEA could give adequate notification to the program administrators.

Information. BEH indicated that the procedures to be used on site would include interviews with administrators, reviews of pupil files, and classroom visits. The SEA then communicated this information to program personnel by phone or by mail.

- Adequacy. The information communicated by the SEA did not seem to sufficiently indicate to program administrators either the purpose of the site visit, the content of the review, or the procedures to be used by BEH staff. As a result, BEH staff spent a considerable amount of time during the interviews with program staff orienting them to the purpose of the waiver review and establishing leadership in the review process, neither of which would have been necessary with more complete notification. In future waiver reviews, BEH should consider alternative notification strategies and should more clearly specify the purpose and procedures of the site visit.

Procedures. Those programs which had been included in the original site selection were notified of the BEH review by a letter from the central SEA office and by telephone from the regional SEA offices. Those programs added to the review schedule two days prior to the visit received telphone notification from the SEA.

- Timing. Some SEA letters of notification did not arrive at the programs until BEH staff were already on site. The information provided by administrators suggests that they had initially been made aware by

telephone of the BEH review only within two weeks prior to the visit. This late notification contributed to the confusion of administrators regarding the purpose of and procedures for the review. Without adequate lead time, program staff were unable to prepare materials which would have facilitated the review process.

Roles and Responsibilities. It was the preference of both BEH and the SEA that the SEA take responsibility for notifying program administrators of the BEH review and communicating to them the procedures the review staff would employ. It was BEH's role to outline the procedures to the SEA so it could notify the program administrators and then, just prior to the start of the visit, confirm the review schedule with SEA regional office staff who were coordinating the on-site reviews.

- Adequacy. The program administrators did not clearly understand the purpose and procedures for the BEH visit. Thus it appears that BEH could have been more specific in communicating to the SEA the exact nature of the review procedures or in requesting that program administrators prepare materials for BEH staff prior to their arrival. In addition, although the SEA had sufficient time to notify most of the program administrators, notification was late and did not adequately explain the purpose of the waiver review process or the complex waiver concept. Given the amount of time and effort that is required of local program administrators to prepare for, participate in, and facilitate the BEH review, better information related to the review's purpose warranted.

Orientation. The purpose of the orientation in preparation for the BEH site visit is to familiarize the staff who will conduct the reviews with the State's special

education delivery system and with their responsibilities during and after the site visit. Although all staff had participated in Program Administrative Reviews in the past, the waiver review was sufficiently different in purpose and intensity to warrant staff orientation. This preparation was necessary to assure consistency across program reviews.

Information. Prior to the visit, several BEH site team members reviewed Massachusetts law and regulations. At an orientation meeting chaired by the review team leader, general procedures to be employed on site were discussed. Topics of this discussion included the identification of program settings to be visited at each site (pre-school through senior high school settings, settings by prototype, etc.), the programming areas related to the concept of FAPE that were to be examined such as LRE the range of programming available the child find and due process practices, and IEP development and implementation.

- Adequacy. After the on-site reviews some team members in retrospect identified the following areas in which they felt they could have used more information: (1) the organization of the State's special education delivery system; (2) State mandated policies and procedures; (3) background information on the individual programs to be visited related to such things as size, demographics, and recent State audit reports; (4) more speicfic guidelines for on-site review procedures; and (5) an explanation of the differing BEH/SEA interpretations of the waiver to

supplant. Not having sufficient information either on the State special education system or on the individual programs they would review prior to the visit required BEH staff to spend a considerable portion of each program review in general orientation. The absence of firm procedural guidelines resulted in some inconsistency among reviewers in the scope and depth of their reviews as demonstrated by the data they reported back to the waiver team leader.

Procedures. Orientation of the waiver review team occurred two working days prior to the start of on-site review activities. Several members of the team had been involved in various ways as the review procedures were being developed. Also, several members of the team sought additional information beyond the overview porvided at the orientation meeting. The orientation consisted of three presentations, one each by the waiver team leader, the SPO for Massachusetts, and an SPO who had developed guidelines for conducting program reviews.

- Timing. An organized orientation process was critical to assure that all of the program reviews were conducted in a similar manner and that the information recorded across programs was consistent. Also, reviewers needed to assimilate an extensive amount of information because they had not participated in a waiver review before. Because the orientation meeting was held

two days prior to the start of the site visit, some reviewers felt they did not have sufficient time in which to obtain and/or assimilate information related to State policy and local practice or to discuss potential and acceptable review strategies.

Roles and Responsibilities. The BEH team leader had the primary responsibility for providing staff with orientation information. Some review team members independently pursued information related to the State, and two members prepared forms for recording program data and explained their use to other team members.

- Clarity. The responsibility for orienting staff was unclear to some team members in terms of who was to provide what information when. They were aware that the waiver review would be significantly different form other reviews they had conducted and attempted to prepare themselves as the time for the visit approached by discussing the State's special education system with the SPO for Massachusetts and by reviewing State-rebated documentation. The lack of clarity over what any one individual was responsible for (individual reviewer, SPO, or team leader) resulted in some independent preparation and ultimately a differential knowledge base among reviewers.

On-Site Activities

Each of the program reviews consisted of interviews with program administrators. an examination of individual pupil files, and visits to classrooms to track the nature of IEP implementation. These activities were designed to provide BEH

with information on a program's overall procedural practices, on the range of programming options available to children, and on the education and related services individual children were receiving.

Information. In interviews with program administrators BEH program reviewers obtained the following types of information: the programming options available to children; procedural practices related to PL 94-142 requirements such as least restrictive environment and due process; practices for identifying assessing, and placing handicapped children; IEP development; the number of children served by age and category of disability or prototype; the number of children awaiting assessment and placement; the teacher-pupil ratio; and SEA monitoring activities. In the review of individual pupil files, BEH staff examined the files to find out whether parental consent had been obtained for evaluation and placement; whether educational assessments had taken place and their results used in program development; and whether the individualized education program plans included statements of the child's present level of performance, the goals and objectives of the child's program, the criteria for evaluating the child's progress, the services to be provided, and the date for initiation and review of services. In the classroom visits, BEH reviewers looked to verify that the goals, objectives, placement, and services identified in the educational plan were implemented in the child's program.

- Completeness. Although the BEH reviewers obtained some level of information on all aspects of special education programming, the information was not always as complete as it might have been had there been more time. As an example, because the interviews with program administrators took

nearly a half a day to complete, only a limited time was available for classroom visits. Reviewers were able to see only selected programs in operation, and in most cases, these programs did not represent the range of settings or options available. Even in some of the smaller districts where as few as ten program settings were in operation, review time was limited. As a result, reviewers had incomplete information concerning the availability of FAPE in many of the districts visited.

- Participation. The BEH waiver review strongly emphasized IEP development and implementation as a measure of the availability of FAPE. Therefore, reviewer attention was focused on such procedural elements as referral, evaluation, and placement of children; due process; protection in evaluation; and participation in IEP development. To obtain information in these areas administrators and teachers were interviewed. However, the perspectives of others with equally important roles in the special education process were not systematically obtained. Because of the emphasis on the participation of several individuals in IEP development and on the procedural safeguards afforded parents and children, input from such persons as parents, psychologists, and other school personnel responsible for planning children's programs would have provided a more complete picture of district performance. Although the perspectives of such persons were not purposefully excluded in the on-site reviews, it was not possible for BEH to pre-select parents or psychologists to interview. The on-site schedule did not allow the time to arrange such interviews without causing the potential respondents considerable inconvenience.

Procedures. BEH staff spent at least one full day in each program review, and in the two largest LEAs (over 25,000 ADA) two days were scheduled. Interviews with program administrators were followed by file reviews, classroom visits, and interviews with teachers.

- Timing. In general, the procedures used in the program reviews were adequate for obtaining most of the required information. Some of the programming areas, as mentioned earlier, could not be fully examined, however, due to a lack of time. As an example, reviewers were able to discuss child find procedures with administrators but did not have time to actually examine the operation and adequacy of the process. The single most significant factor affecting the time for program reviews was the inadequate information available about programs prior to the on-site visits. This problem is discussed below.

- Preparation. The need for BEH staff to become familiar with each program coupled with a need for program administrators to prepare materials for reviewers required that a significant amount of on-site time be spent in structuring rather than actually conducting the review. As discussed earlier, BEH staff had little information about specific programs prior to their visit. Further, program administrators had not been adequately notified of the types of information BEH would require or of the documentation required to facilitate on-site review procedures. As an example, at one of the larger sites several hours were spent in determining which buildings and

classrooms would be visited and which children's files reviewed because class lists were not available or were incomplete and were not centrally located. In another district this process was greatly facilitated because the program administrator maintained complete class lists in the central office.

- Adequacy. Affecting all of the procedures used in the program reviews was the difficulty reviewers had in recording and quantifying the data obtained. Prior to the site visit, two review team members had prepared forms on which to record data. The prototypic forms proved to be lengthy and somewhat cumbersome, even though they represented a systematic attempt to standardize data. As a result, reviewers recorded data in a variety of ways resulting in limited comparability of data across programs.

Roles and Responsbilities. In addition to the obvious role of BEH staff in the program reviews, program administrators were responsible for facilitating the review process and providing the information that BEH required. In addition, SEA regional office staff were instrumental in providing background information on regional service delivery systems and in facilitating scheduling modifications when necessary.

- Clarity. As a result of the lack of specificity in the notification the program administrators had received, several were unclear as to the purpose of the review, the procedures to be followed, and their role in the review. Administrator response to the arrival of BEH

staff ranged form attempts to tour reviewers through facilities and describe innovative practices to a readiness to respond to reviewer needs and facilitate review activities. In some cases, individual administrator initiative resulted in the preparation of quite useful and clarifying information. In other cases, the initial ambiguity over roles and procedures required BEH staff to spend considerable time in establishing leadership and procedural guidelines.

IMPLICATIONS

The on-site review activities were designed as a verification procedure to examine the SEA claim that FAPE was available throughout the State. This section has assessed the nature of the preparation and the on-site activities used by BEH to review specific programs. The following implications should be considered in designing future on-site program reviews.

- Statements related to the information, procedures, roles and responsibilities that will characterize the on-site program reviews need to be prepared by BEH for dissemination either by the SEA or directly by the Bureau.

- Early notification to all those participating in the on-site program review is necessary to effect efficient and effective review procedures.

- In order to optimally utilize on-site time for program review, BEH staff need program orientation materials before they make on-site visits. Such information might include SEA audit reports, programming options, the

number of children enrolled in each program, policy and procedural statements, etc.

- Given the comprehensiveness of the review and the likely political climate in which it will take place, a comprehensive orientation for BEH staff needs to be conducted at least two weeks in advance. This should permit the time needed for assimilating information and asking follow-up questions, in the midst of busy schedules.

- Given the nature and the magnitude of the information reviewers require, orientation should be a joint responsibility of the waiver review team leader and the SPO for that state.

- A structured, concise format for recording information is needed to facilitate file and program reviews and interviews. This will assure across-site information comparability. In addition, it will orient and direct the on-site review process, thereby minimizing the possibility of critical issues being overlooked.

- In order to accomplish the on-site review given the restrictions imposed by class schedules, it may be necessary to have more than a single reviewer per site. In addition, interviews with administrative personnel should be structured to permit maximum time for visiting programs during school hours.

- Procedures need to be developed which will permit other school personnel and parents to participate in the program review. Reliance on administrators and teachers for information provides only partial confirmation of data.

Public Participation

BEH determined that a comprehensive review of the availability of a free appropriate public education to handicapped children should offer the opportunity for participation by persons who would not systematically be involved in the review of individual programs. The PL 94-142 regulations specified a role in the waiver review process for parent and professional organizations by requiring that representatives of such groups have input into the special state study. Bureau administrators extended the concept of public participation in order to afford an opportunity for involvement to the broader special education community, including advocacy organizations and individuals. Three different forms of public participation were designed into the Massachusetts waiver review process: 1) two public meetings and acceptance of statements submitted to BEH; 2) interviews with representatives of several interest groups; and 3) meetings with groups of parents held in the geographic area of several of the program review sites. Whereas, the first two types of public participation were arranged by BEH, the latter forum was initiated by a coalition of special education interest groups.

Public Meetings and Written Statements. With the assistance of the SEA, BEH scheduled two public meetings in geographically distinct areas of the State. In assessing the public meetings and written statements the following discussion is divided into two sections: notification activities which preceded the meeting and on-site activities.

Notification. The purpose of the Bureau's public notification activities was to inform interested persons of the purpose of and opportunities for participation in the Massachusetts waiver review. Initial notification of the major consumer, advocacy, and professional organizations had occurred at the orientation meeting when BEH staff met with representatives of several of these groups. Official notification of these and other groups as well as of the general public took two forms: mailings and newspaper announcements. With the assistance of the SEA, BEH identified all LEAs, State-operated programs, State-approved private schools serving the handicapped, and other appropriate State agencies, college and university special education programs, and the major consumer, advocacy, and professional organizations for receipt of a BEH mailed announcement. Notification of the general public was planned through the placement of notices in newspapers throughout the State.

Information. The content of the announcements was developed by BEH and this contractor with input from the Massachusetts SEA, several advocacy and consumer organizations, and DHEW's Office of General Counsel, Office of Civil Rights, and Office of Public Affairs.

- Adequacy. No feedback was received on the appropriateness of the content of either the mailing or the newspaper announcements. Since the announcements were developed with input provided by several sources, their content is assumed to have been adequate in terms of the language used and the information communicated. Further exploration would be needed to verify the utility of the documents in communicating the waiver concept and the procedures available for public participation.

- Timing. Notification of the consumer, advocacy, and professional organizations was intended to facilitate communication with their constituents. Because these groups depend upon the use of newsletters for communication with their membership, they needed to have access to the content of the BEH notices well in advance of the site visit. Determination of the specific public participation procedures and the development of the content of the public notices occurred beyond the time when these organizations could make use of their scheduled newsletters. Thus they had to use additional mailings and extensive, costly telephone communications to effect adequate notice. The late notification taxed these groups' voluntary and generally restricted financial resources.

Procedures. BEH staff prepared and mailed announcements to the groups and individuals mentioned above. Due to delays in preparing the announcements resulting form lengthy approval and clearance procedures, the announcements were mailed one week prior to the start of the on-site review. The newspaper announcement was sent to public affairs staff in the U.S. Office of Education Region I office at the same time. This office transmitted the media announcement to approximately 200 daily and weekly news publications in Massachusetts with the request that the notice be printed immediately.

- Timing. The accepted practice in public notification as described by DHEW Office of Public Affairs staff suggests that notice should be given at least one month prior to the date of the planned activity. The programs and individuals to whom BEH mailed announcements were effectively notified only days prior to the BEH public meetings. The same was true in the notification of the general public. BEH had no

guarantee that newspapers would publish the announcement because they were sent as news rather than as costly public service notices. Feedback of participants in the public meetings and accepted practice in public notice suggest the need for the placement of multiple newspaper items over a period of time in order to attract public attention.

- Adequacy. The two strategies used by BEH, mailings and newspaper announcements, were part of an original plan that included radio and/or television announcements. Because notification materials were not available earlier, the use of media other than newspapers was not possible. Preparation of broadcast public service announcements requires approximately two months for production and distribution. Arranging interviews with appropriate officials and interested individuals for broadcast would have required comparable lead time. Recognized as a significant public notice mechanism, broadcast announcements would have balanced the strategies BEH used for effecting notification of the general public by providing access to information through the most popular of media forms.

Roles and Responsibilities. In designing the Massachusetts waiver review, BEH and the SEA agreed that BEH would take responsibility for all arrangements concerned with public participation activities, including notification. BEH looked to the major consumer and advocacy organizations for assistance in the development of notification procedures. In response, several of these organizations took a major role in effecting the notification, and subsequently, the participation of their constituents.

- Clarity. BEH encouraged a prominent consumer/advocacy organization role in order to assure that public notification would be as effective as possible in the limited time available. The SEA expressed some concern over the extent to which these groups were involved in the notification activities. Although BEH had defined an active role for consumers and advocates in the waiver review process, as illustrated in the notification activity, this role was unclear to the SEA.

- Adequacy. An even greater role for the major consumer and advocacy organizations in the notification process was recommended by public meeting participants. Several pointed to the difficulty they encountered in finding out information on the purpose of and the procedures for participation in the Massachusetts waiver review as typical of their experiences with Federal and State special education policy activities. It was suggested that more reliance on the organized special education community by education agencies for public information would result in more representative public participation, particularly in the public meetings.

On-Site Activities. Each meeting consisted of a morning, afternoon, and evening session designed to enable as many people as possible to participate. Persons wishing to comment were given that opportunity in the order in which they signed in at the meeting. Speakers were given up to 10 minutes in which to present comments and then up to 5 minutes were used by two BEH staff members who chaired the meetings to question speakers for clarification purposes. In the notification announcements, interested persons were invited to submit written statements to

BEH staff either in person at the public meetings or directly to the Bureau by mail. Commentors were urged to address only PL 94-142 requirements related to FAPE in their presentations and to provide as much appropriate detail as would be necessary for BEH to fully understand the information communicated.

Information. The information presented at the public meetings and in written statements included the personal experiences of individuals related to the special education delivery system; statements by representatives of consumer, advocacy, and professional organizations related to issues raised by their constituents; and statements by local administrators primarily related to the adequacy of their special education programs.

- Usefulness. The information obtained from the public meetings varied in its usefulness to BEH in evaluating the SEA request for a waiver. Although some of the information presented was accompanied by appropriate documentation and a substantial amount of detail, most of the statements required that BEH staff spend a considerable amount of time in questioning commentors in order to clarify the issue and its relevance to FAPE. Some of this information was accepted by BEH, but could not be considered in its evaluation of the waiver request because it lacked the documentation and details necessary for BEH to conduct follow-up verification. This situation was equally true for individuals who discussed their personal experiences and for administrators who spoke mainly to the need for the BEH waiver. In order to consider any information in a waiver review, BEH must either receive verified evidence or be able to verify it through follow-up activities.

- Clarity. In order to assure that the information participants provide BEH can be considered in the evaluation of a waiver request, it is necessary that notification materials clearly and specifically emphasize BEH requirements. The public notice given in Massachusetts did state BEH's need for detail and directed respondents to comment only in those areas of programming related to the concept of FAPE as suggested by the PL 94-142 requirements. However, the nature of the information presented both in person and in writing in the Massachusetts waiver review suggested that greater definition and emphasis by BEH is necessary in soliciting public participation.

Procedures. The opportunity for participation in the Massachusetts waiver review through public hearings and written comments was provided to all interested persons. BEH anticipated that a limited amount of time would be required in which to follow-up any relevant unverified information, and therefore scheduled staff time for follow-up activities after each public meeting, and if necessary, at the end of the site visit.

- Participation. Most participants in the public meetings fell into three categories: program administrators; consumer, advocacy, and professional organization representatives; and parents. Some of the administrators and organization representatives had been interviewed in other settings during the on-site visit. Because the time available for comment in the public meetings was limited (approximately nine hours at each meeting) and because the public meetings were intended for participation by the general public, the appropriateness of par-

ticipation by persons interviewed elsewhere was questioned by BEH and some participants. As several participants pointed out, the jobs of administrators and others working in special education facilitate participation by providing travel reimbursement and the time necessary to participate. For others, such as parents, who have an interest but do not work in comparable positions, participation often may require taking leave from work or arranging and paying for babysitters and travel. Limiting participation to persons not otherwise interviewed in the course of the review would assure that as much of the available time as possible would be allotted for those who do not have other opportunities for providing input.

- Timing. The public meetings were held during the second week of the Massachusetts site visit. Two BEH staff were assigned to the review during that week and follow-up activities to verify undocumented information presented in the public meetings was limited to two days. Although several weeks had been originally scheduled between the completion of the site visit and the date on which the BEH decision on the SEA waiver request was due, postponement of the site visit made follow-up verification difficult. As a result, unverified or undocumented information that could not be explored further was of only limited use in evaluating the SEA waiver request. Given that some information provided through public participation activities will most likely always be of a general nature, sufficient time needs to be scheduled into the waiver review process to assure that adequate follow-up is possible.

- Clarity. During the first public meeting some SEA staff expressed concern over the procedures used to obtain information from commentators. After some participants made their presentations, the BEH staff chairing the meeting asked questions for the purpose of clarifying the statements made. The SEA staff felt that it was the nature of a public meeting to merely accept comments, not to solicit clarification or to request additional information. In contrast, BEH maintained that in order to fully understand the sometimes incomplete comments offered by speakers and relate them, when possible, to the waiver concept, directed questioning was necessary.

Roles and Responsibilities. The SEA requested that BEH take responsibility for the public meetings without participation by SEA staff. BEH therefore planned that the meetings would be conducted by the waiver review team leader and another member of the BEH waiver task force committee.

- Clarity. Although it had not been formally discussed, the SEA had intended that one of their staff would chair the public meetings with BEH. On the day of the first meeting, when the SEA intent was made known, BEH declined the arrangement. It had been BEH's understanding that the responsibility for conducting the meeting would be theirs and had indicated this arrangement in public notification announcements. BEH maintained that the public meetings should be viewed as impartial forums for public participation, therefore making a formal SEA role undesirable. SEA staff had the opportunity during the hearings to respond to participant comments for clarification purposes.

Interviews. Throughout the two-week site visit, BEH scheduled and held interviews with representatives of the Massachusetts Association of School Superintendents, the State Advisory Council, and the Coalition Task Force on the PL 94-142 waiver to discuss their perspectives on the availability of free appropriate public education in Massachusetts. These three organizations represented several major consumer, advocacy, and professional groups.

Information. The information obtained by BEH in the interviews included elaboration of comments the organization had made in response to the special state study as well as some new information related to special education programming in Massachusetts.

- Usefulness. For the most part, new information provided to BEH in the interviews was adequately researched and documented, and therefore useful in the evaluation of the SEA waiver request. In at least one of the interviews, discussion of that organization's response to the special state study revealed that its perspectives related to some areas of programming were contradictory to those expressed numerically in their response. This forum was extremely useful in pointing out the limitations of the Massachusetts special state study as a mechanism for soliciting evaluative input from organizations related to the availability of FAPE.

Procedures. Based on the identification of the State's major consumer, advocacy, and professional organizations that occurred earlier in the waiver process, BEH scheduled interviews with representatives of these groups several weeks in advance of the site visit.

- Timing. Several of the groups represented by one of the major consumer organizations interviewed had had the opportunity to discuss with BEH the purpose and the type of presentation of information that BEH would require. As a result of this early notification, these groups were able to prepare comprehensive information related to the adequacy and effectiveness of the special education system. Those organizations which had not participated in the earlier orientation with BEH and were notified of the interview just prior to the site visit were less able to provide useful new information. Adequate and timely notice of the purpose of the interview would have enhanced the usefulness of their participation.

Roles and Responsibilities. The role of the representatives of the three organizations interviewed was to present information on behalf of their constituents. The State Advisory Council and the Coalition Task Force on the PL 94-142 waiver broadly represented the consumer, advocacy, and professional special education community.

- Participation. Special education teachers, providers of related services, and local administrators of special education were not represented to the extent that other interest groups were in the BEH interviews, nor for that atter in the responses made to the special state study. Although the State Advisory Council and the Coalition counted among their members some special education practitioners, their representation was disproportionate to that of other special education interest groups. In addition, local special education administrators were represented by only by a single membership on the State Advisory Council. In consideration of BEH's focus in the waiver review on local performance, additional practitioner and ad-

ministrator involvement in the interviewing activities should be encouraged.

Parent Meetings. The purpose of the parent meetings was to offer an opportunity for parents living near the sites of the BEH program reviews to make comments related to the availability of FAPE. Because of the difficulty of obtaining individual parent input throughout the waiver review process resulting from problems associated with notification and with the design and implementation of strategies appropriate for parent participation, BEH felt that parent meetings would be one mechanism for obtaining the parental perspective. The parent meetings were arranged by the Federation for Children with Special Needs.

Information. The information presented in the parent meetings was for the most part based on a personal experience. Parents spoke of experiences related to the special education programs provided primarily by the local school systems.

- Usefulness. The information provided in the parent meetings was similar to some of that obtained in the public meetings in that it was largely unverified or undocumented. It should be expected that information obtained from individual parents is likely to be of a personal nature, and that its usefulness in evaluating an SEA waiver request will be highly limited. Such information should be useful, however, in directing BEH to areas potentially in need of further examination.

- Appropriateness. A significant number of comments made in the parent meetings addressed practices that are not governed by PL 94-142 regulations, and therefore could not be considered by BEH. Some comments

were specifically related to State law only. This situation could be explained in two ways. First, the waiver is a complicated concept and its relationship to an individual child's education a difficult one to understand. Second, without considerable orientation, parents were not generally aware of the specific programming areas in which comments to BEH were appropriate. The average parent (and many professionals as well, we suspect) does not know whether school practices in special education reflect local policy or State or Federal regulation. And rarely does the parent need to be able to make such distinctions. Orientation of parents for meetings such as those held in Massachusetts should occur, however, and provide as much guidance as possible in order to maximize BEH's use of parental input and minimize inappropriate parental expectations.

Procedures. Parent meetings were held late in the day near several of the program review sites. Each meeting was one to two hours in length and was conducted primarily by BEH staff, who explained the purpose of the waiver review and the parent meetings and then listened to participant comments. Arrangements for the meetings had not been firmly made prior to the site visit, and so were held with little advance preparation on the part of BEH.

- Timing. The undocumented nature of most of the information obtained in these meetings required that BEH conduct follow-up inquiries in order that the information be useful in evaluating the SEA waiver

request. However, because the meetings were scheduled at the last minute and BEH had not anticipated the need for follow-up verification, there was neither sufficient staffing nor time available to adequately pursue additional information to verify statements that were made. When appropriate, some verification inquiries were made in the course of subsequent program reviews, but this activity was limited.

Roles and Responsibilities. Member organizations of the Federation for Children with Special Needs, which represented several parent and other consumer groups, planned and organized the parent meetings and asked BEH to attend in order to give their constituents an opportunity for direct input into the waiver review process. Federation members felt that the participation of their local memberships was as necessary as participation by organization officers. Attendance at the meetings by BEH staff, as directed by the waiver team leader, was encouraged but left as an option for each reviewer.

- Clarity. The SEA did not sanction the parent meetings, but their disapproval was not made known to BEH until after the completion of the site visit. BEH staff had mentioned to the SEA that local parent meetings might be included as part of the waiver review at the time procedures for the on-site review were being discussed. The SEA expressed some concern that their staff would not have a role in these meetings as they had had in other review activities. SEA staff did in fact attend the meetings with the approval of the parents involved.

IMPLICATIONS

Public participation in the waiver review process is critical as a means to verify that all children are in fact receiving a free appropriate public education. In addition to the above role, active public participation provides an open opportunity for citizens to broadly affect the use of their tax dollars. Such openness to public review and accountability is considered critical to maintaining support for providing SEA and federal fiscal assistance to the handicapped. Towards this end, the following implications should be considered in designing future public participation activities.

- The complexity of the waiver concept coupled with the broad participation desired in the review procedure makes timely notification critical. Not only must notification occur several months prior to the actual on-site visitation, but procedures for back-up informational assistance to be provided by the SEA and consumer groups need to be developed.

- Future notification efforts should seriously consider the use of television and radio public service discussions.

- Paid public service announcements which can be run many times, in addition to news features, should be used to inform the public of opportunities to participate.

- The public needs to be made aware of the form and content of information most useful to BEH in evaluating a waiver request.

- Priority should be given at the public meetings to persons who, either as individuals or as representatives of agencies or organizations, are not otherwise systematically included in the waiver review process.

- Increased parent participation may require consumer/advocacy groups to arrange for babysitting and/or transportation service.

- The scheduling of the public meetings should occur after a few on-site program reviews have been conducted but with sufficient time remaining to permit follow-up inquiries.

- The BEH should continue to conduct the public meetings, with the SEA participating only to clarify state policies and procedures related to testimony presented.

- The procedures used for questioning and clarifying presentations appear to be effective. The meeting is considered to require the use of two co-chairpersons.

- The interviews appear to be a credible and effective method for providing major organizations a proper forum for intensive discussion.

- It is more convenient for many parents to meet with BEH during on-site program reviews than to attend public meetings. However, parents need to know the appropriate content and format in which to present their experi-

ences. Further, BEH must schedule these meetings in a manner that permits follow-up. Alternatives to group meetings for parent participation, such as individual interviews, should be explored.

REPORTING

After the BEH on-site review activities are completed, the information obtained must be reported to the team leader, evaluated, and synthesized along with data submitted by the SEA earlier in the review. Thus, a report of findings must be prepared in order to have an objective basis for making a decision to approve or reject the SEA waiver request. This section discusses the communication of findings and decisions to the SEA.

Preparation of Report. The preparation of the final report indicating the findings of the review was a centralized task. All participants were asked to turn in their materials and have a debriefing with the team leader. Communication of findings to the Division Director and Deputy Commissioner was an integral part of the report preparation.

Information. The information that each of the BEH reviewers obtained on-site in program reviews was reported to the waiver team leader several days after completion of the site visit. A reporting format was suggested, but reviewers found that it was not universally appropriate for relating their review findings. Consequently, report formats were not consistent across reviewers. As a result of this and the unevenness across reviewers in the type and scope of data recorded on-site, the information submitted to the waiver team leader was highly variable in content and specificity.

- Comprehensiveness. Most reviewers did not give a comprehensive report of the data obtained on-site. Most reports consisted largely of handwritten notes recorded on-site, accompanied in only a few cases by brief evaluative comments. Lacking in most reports was an indication of procedures used to obtain the data and an overview statement summarizing the performance of the programs related to FAPE criteria.

Procedure. Following the completion of the site visit, review team members were asked to prepare reports on each of the programs visited in response to a set of criteria suggested by the waiver review team leader. Reports were then submitted to the team leader and discussed in individual meetings with each reviewer. Drafts of the findings and meetings with the Division Director and Deputy Commissioner resulted in report format modifications.

- Usefulness. Review team members did not find the suggested reporting format adequate for providing feedback to the team leader. Consequently, reports varied in scope, detail, and format. This variability made the team leader's task of organizing, synthesizing, and evaluating data a long and complicated one.

- Adequacy. The reporting procedures followed by individual review team members resulted as mentioned above in highly variable documents. Given the cost, time, and burden the SEA and program staffs had incurred, probably a more consistent and polished set of reports should be on file. In some instances, individual reports lack sufficient credibility as official documents.

- Clarity. The evolving nature of the waiver review process was also evidenced in the report preparation. The team leader was unsure of the format and specificity desired by the Bureau. Consequently the report preparation procedures were iterative and reflected the final nature of the decision and climate of its acceptance. It was not clear initially, that the specific findings and the decision would be, for the most part, reported separately.

Roles and Responsibilities. It was the responsibility of each BEH reviewer to report information obtained in the program reviews back to the waiver team leader who took responsibility for its analysis and evaluation. The reporting activity was critical given the emphasis BEH had placed on the need for local performance data.

- Clarity. The responses of most reviewers suggest that they did not clearly understand their responsibilities for relating descriptive and quantitative data to the team leader. In order to assure consistency and thoroughness in staff reporting in the future, reviewer responsibilities need to be clearly delineated and report formatting specified. The latter suggests the need to first determine the structure and format of the team leader's report to the Commissioner to assure that reviewer reports consistently address those areas where information is needed.

- Burden. BEH staff historically have not been responsible for individual reports as part of the PAR. Thus, the waiver review process

imposed responsibilities on participating staff beyond those they had expected. Varied attitudes, other work responsibilities, and lack of clear expectations resulted in highly varied acceptance of individual report preparation responsibilities.

Communication of Report and Decision. The SEA expected that by July 1, 1978, BEH would communicate its findings and decisions. The findings were communicated to the SEA in stages. The decision that the waiver request was denied was communicated to the Massachusetts Chief State School Officer. SEA staff then visited BEH to review and comment on report drafts. Finally, BEH mailed to the SEA a summary of findings, its decision to reject the waiver request, and recommendations for greater flexibility in the use of Federal monies within the State. The comprehensive report of findings was kept at BEH for review upon request.

Information. The report to the SEA denying the waiver request was general in nature. The specifics which resulted in the decision were maintained at BEH.

- Adequacy. The SEA considered the report adequate for its needs. However, consumer and advocacy groups found the report too vague for negotiating, demanding, and/or assisting the SEA towards required improvements. These groups felt that BEH should have specifically articulated the problem areas and requested timeliness and plans for resolution. This request, although reasonable, does not seem to be in the realm of waiver review procedures. This will be discussed further under roles and responsibilities.

Procedures. The communication of the report and decision to the SEA needed to be done in a timely and sensitive manner. BEH appears to have accomplished both of these requirements. The sequential process that was followed and the cooperative climate created by permitting SEA review prior to report finalization resulted in programmatic and procedural acceptance.

- Credibility. The report communication was rapid and decisive. At the same time there were some feelings by the consumers and advocates, given the extent of their participation, that they should have been given some consideration in reviewing the drafts of the report. Further, they would have preferred receiving the report directly rather than having had to request a copy.

- Adequacy. Though a final report of general findings, decisions, and recommendations was provided the SEA on time, the back-up reports remain problemmatic. The reporting of findings and recommendations to the SEA prior to completing all documentation appears to have resulted in changing priorities for the team leader's time. As a consequence, the back-up report of specific findings is not completed for use by the consumers and advocates. Future scheduling of waiver reviews requires a greater allotment of staff time to complete all reporting requirements.

Roles and Responsibilities. BEH communicated its decisions to the SEA on time. The Deputy Commissioner and waiver team leader had primary responsibility for this communication. The reports were shared internally with BEH staff for their comments and their information.

- Clarity. Although the communication of the report appears to have been conducted in an effective manner, future relationships appear clouded. Specifically, the consumer and advocacy groups which desire to pressure for compliance are requesting informational and procedural assistance from BEH. It would seem that the SPO is the logical person to provide ongoing continuity. Consequently, the consumer and advocacy groups should work with the SEA and the SPO to develop corrective actions.

IMPLICATIONS

The magnitude of the waiver review activities in terms of time, numbers of participants, costs, and visibility requires a comprehensive and politically sensitive reporting process. The complexity of information to be synthesized, the need for consistency in evaluating findings, and a need to communicate to multiple decision makers and interest groups makes this a formidable task. The "first time" nature of the Massachusetts review probably made the reporting more difficult than it will be in future efforts. Report preparation and communication in the future should consider the following implications.

- Future waiver reviews need to specify clearly the responsibility of individual reviewers for preparing their program reports as well as for the content and format of those reports.

- The individual reviewer reports need to be of a quality and comprehensiveness to stand the test of public scrutiny without calling the review into question.

- The content, format, and specificity of reporting required of individual reviewers as well as that of the team leader results in a need for extended time for report preparation after the visit. This time must be viewed as a responsibility and as a priority endeavor until the report is completed.

- Whether the final report or a back-up report is used, the specific findings of the waiver review need to be documented and made easily available to all interested and responsible groups. This information gains greater significance in light of the commitments the consumer and advocacy groups made in providing substantive input. These groups depend on BEH to assist them in working with the SEA to achieve compliance based upon such findings.

- The role of the SPO in following up the findings of the waiver review need to be specified and then communicated to consumer and advocacy groups.

SUMMARY

Having assessed each of the major activities of the Massachusetts waiver review certain generalizations are evident. The actual process overall was an unequivocal success in its implementation. The Bureau, SEA, and consumer/ advocacy/professional organizations conducted the process in a professional and sensitive manner. Accomodations were made by all parties to facilitate the process and promote active, informed participation.

The basic changes in waiver review processes in the future learned from t..s initial experience should include:

- Greater preceision in specifying what SEA, state-wide aggregated and LEA specific data related to FAPE criteria is required;
- Expanding timelines for each major activity to permit more comprehensive preparation and participation by the SEA and by consumer/ advocacy/ professional organizations; and
- Designing the waiver review process to permit greater standardization in obtaining information, more time for follow-up activities, and clear expectations concerning the nature of reporting.

Specific r.commendations related to each of these generalized suggested changes have been presented throughout the report. The Guide to be developed should be designed to maintain the cooperative climate characterizing the Massachusetts waiver review and at the same time provide the necessary orientation and direction to reduce ambiguity related to information, procedures and/or roles and responsibilities.